

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Björn Nilsson	Art Unit :	1624
Patent No. :	7,247,633	Examiner :	Venkataraman Balasubramanian
Issue Date :	July 24, 2007	Conf. No. :	6954
Serial No. :	10/618,868		
Filed :	July 14, 2003		
Title :	PYRIMIDINE COMPOUNDS AND THEIR USE		

MAIL STOP PETITIONS (c/o OPLA)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)

Applicants hereby petition for reconsideration of the Patent Term Adjustment (PTA) accorded the above-referenced patent. Attached herewith is a copy of the Issue Notification including a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b), mailed July 4, 2007, for the above-referenced patent. The notification, as well as the face of the patent, states that the Patent Term Adjustment at issuance is 0 days. Reconsideration of the Patent Term Adjustment is respectfully requested.

REVIEW OF PATENT TERM ADJUSTMENT CALCULATION

A review of the Patent Term Adjustment History in the PAIR system shows that the United States Patent and Trademark Office (PTO) calculated the Patent Term Adjustment (PTA) as follows:

- 1) The PTO mailed a delayed first action on May 2, 2005. Applicants do not herein dispute the calculated PTO Delay of 230 days.
- 2) Applicants submitted a response to the delayed first action on September 6, 2005. Applicants do not herein dispute the calculated Applicant Delay of 35 days.
- 3) Applicants submitted a response to the non-final office action dated November 9, 2005, on May 15, 2006. Applicants do not herein dispute the calculated Applicant Delay of 95 days.
- 4) Applicants submitted a Request for Continued Examination (RCE) and response to the final rejection dated July 26, 2006, on January 26, 2007. Applicants do herein dispute the calculated Applicant Delay of 91 days. Applicants suggest, in good faith and candor, that additional Applicant Delay of one day is appropriate under 37 CFR. § 1.704(c)(8) for papers filed January 26, 2007, since the date of receipt by the PTO was incorrectly entered into the PAIR Patent Term Adjustment History as *January 25, 2007*.
- 5) Applicants submitted a "Letter Regarding Patent Term Adjustment" on May 11, 2007 (copy enclosed) indicating the calculated PTA was thought to be longer than appropriate. In the PAIR Patent Term Adjustment History, the document is entered as a "Miscellaneous Incoming Letter." Applicants respectfully disagree with the calculated Applicant Delay of 27 days for this paper and hereby request its removal.
- 6) The PTO mailed a Notice of Allowance on April 5, 2007, to which Applicants responded by submitting a "Response to Notice of Allowance" on June 7, 2007. In the PAIR Patent Term Adjustment History, the document is entered as a "Miscellaneous Incoming Letter." Applicants respectfully disagree with the calculated Applicant Delay of 48 days for this paper and hereby request its removal.

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REMARKS

In consideration of the events described above, Applicants believe the PTA calculation of 0 days is incorrect.

Applicants believe the "Letter Regarding Patent Term Adjustment" filed May 11, 2007 should not be considered a "failure to engage in reasonable efforts" under 37 CFR §1.704(c)(10) given the discussion in MPEP 2733:

If a registered practitioner receives a notice of allowance with a patent term adjustment that is longer than expected, the practitioner should disclose the error to the Office in compliance with the practitioner's duty of candor and good faith in practice before the Office. Where the correct patent term adjustment is thought to be less than indicated by the Office, an application for term adjustment under 37 CFR 1.705(b) need not be filed. Instead, a letter could be filed with the issue fee payment, indicating that the term adjustment is thought to be longer than appropriate.

Applicants thus respectfully request the removal of 75 days of Applicant Delay attributed to the "Miscellaneous Incoming Letter" entries after allowance, thus decreasing Applicant Delay from 296 days to 222 days and increasing the Total PTA from 0 to 8 days.

Applicants believe the \$200.00 payment for the petition fee required by 1.18(e) should be waived due to the nature of the PTO's errors after allowance. If this request does not meet the criteria for dismissal or waiver of a PTA petition fee, please apply the fee and any other charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 13425-056002.

Respectfully submitted,

Date: September 21, 2007



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